

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-026970

06/18/2012

HONORABLE MICHAEL J. HERROD

CLERK OF THE COURT
M. Sahli
Deputy

MARVIN L ERICKSON, et al.

DAN M DURRANT

v.

PAUL D MCKERNAN, et al.

LEO R BEUS

TRIAL MINUTE ENTRY
DAY ELEVEN

9:11 a.m. Trial to a Jury continues from June 15, 2012. Plaintiff Bass is present with counsel, Thomas Connelly. Defendants are present with counsel, Dan Durrant. The jury is present.

Court reporter, Marylynn LeMoine is present and a record of the proceedings is made by audio and/or videotape.

Bradley Folkestad resumes the stand and testifies further.

Defendants' exhibit 99 is received in evidence.

Court and counsel discuss juror questions and the Court directs the appropriate questions to the witness.

FILED: Juror Question (1)

10:34 a.m. Court stands at recess.

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10:50 a.m. Court reconvenes with respective parties and counsel present. The jury is present.

Court reporter, Marylynn LeMoine is present and a record of the proceedings is made by audio and/or videotape.

The witness resumes the stand and testifies further.

12:09 p.m. The jury leaves the courtroom and court remains in session. Court and counsel discuss final jury instructions and forms of verdict.

12:10 p.m. Court stands at recess.

1:08 p.m. Court reconvenes with respective parties and counsel present. The jury is not present.

Court reporter, Amy Weaver is present and a record of the proceedings is made by audio and/or videotape.

Court and counsel discuss final jury instructions and trial schedule.

1:29 p.m. Court stands at recess.

1:41 p.m. Court reconvenes with respective parties and counsel present. The jury is present.

Court reporter, Amy Weaver is present and a record of the proceedings is made by audio and/or videotape.

The witness resumes the stand and testifies further.

3:09 p.m. The jury leaves the courtroom and court remains in session.

Court and counsel discuss the trial schedule.

3:11 p.m. Court stands at recess.

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3:27 p.m. Court reconvenes. Plaintiff Marvin Erickson is now present. Respective parties and counsel are present. The jury is present.

Court reporter, Amy Weaver is present and a record of the proceedings is made by audio and/or videotape.

The witness resumes the stand and testifies further.

Court and counsel discuss Juror Questions.

The Court directs the appropriate questions to the witness.

FILED: Juror Questions (2)

Defendants rest.

4:50 p.m. The jury leaves the courtroom and court remains in session.

Plaintiffs make Motion for Judgment as a Matter of Law as to the Counterclaim re payment for Ultrasound Machine Usage on the Unjust Enrichment Count.

Argument is presented to the Court.

IT IS ORDERED granting the Motion as the damages are speculative and the jury cannot reasonably make a calculation based on the evidence presented, and because there is no evidence that there was an actual agreement that Bass, Hu and Erickson would pay for ultrasound machine usage.

Rebuttal:

4:59 p.m. The jury is now present in the courtroom.

Marvin Erickson resumes the stand and testifies further.

The witness is excused.

5:02 p.m. The jury is excused with instructions to return at 9:00 a.m. and court remains in session.

5:03 p.m. Court stands at recess.

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5:15 p.m. Court reconvenes with respective counsel present. Defendant Folkestad is present.

Court reporter, Amy Weaver is present and a record of the proceedings is made by audio and/or videotape.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Court and counsel discuss Final Jury Instructions.

5:26 p.m. Court stands at recess until 9:00 a.m. on June 19, 2012.

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.